IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3571 OF 2005

Bhima Maruti Sangulkar. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Mrs.P.P.Kakade for the Applicant.
Shri K.V.Saste, A.P.P. for the Respondent-State.

CORAM : ABHAY S. OKA, J.

DATED : 22nd June, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. A case has been registered against the applicant for offence punishable under section 376 of the Indian Penal Code. F.I.R. has been lodged by the wife of the Applicant alleging that offence has been committed by the Applicant against his own daughter aged about 14 years.

2. The learned Counsel for the Applicant submitted that the medical certificate is against the prosecution case and it records that the findings are not suggestive of sexual intercourse. The learned Counsel submitted that charge sheet has been filed. She stated that now the original Complainant is willing to withdraw the complaint against the Applicant.

3. The learned A.P.P. has pointed out that the offence is of a very serious nature and this is not a case where the Applicant can be enlarged on bail.

4. I have considered the submissions made by the learned Counsel appearing for the parties. The statement of the victim who is the daughter of the Applicant has been recorded. The statement of one Shiva, who is a neighbour of the Applicant, is also recorded as also the statement of one Ramabai who is also neighbour. The statements of the said witnesses and other neighbours show complicity of the Applicant. The daughter of the Applicant appeared before the Police and has stated about the sexual assault by the Applicant. The said statement is well supported by the statement of other persons who are residing in nearby premises.

5. Considering the gravity of the offence and the nature of allegations against the Applicant, this is not a case where the Applicant can be enlarged on bail. Medical certificate cannot be the only ground on which the Applicant can be granted benefit of enlarging him on bail. Looking to the nature of the offence alleged against the Applicant, this Application deserves to be rejected. Considering the fact that the Applicant is in custody, the learned Sessions Judge will give priority to the trial of the Applicant.

Judge.